IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Tr.P(C).No. 78 of 2007()

OPG&W.28/2006 of FAMILY COURT, THIRUVALLA
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PETITIONER

SHYNIMOL T., W/O. OOMMEN VARUGHESE @ SAJAN, AGED 30 YEARS, ANNKKARUPARAMBIL HOUSE, MANNATHERY MURI, MANNANCHERY P.O., KOMALAPURAM VILLAGE, ALAPPUZHA.

BY ADV. SRI.T.RAJESH

RESPONDENTS:
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1. OOMEN VARUGHESE @ SAJAN, S/O. THANKAN P.V., AGED 33 YEARS, ANKAKKUNNEL SAJA BHAVAN, CHATHENKARY P.O., CHATHENKARY MURI, PERINGARA VILLAGE, THIRUVALLA.

2. THANKAN P.V. @ THANKACHAN, AGED ABOUT 52 YEARS, ANKAKKUNNEL SAJA BHAVAN, CHATHENKARY P.O., CHATHENKARY MURI, PERINGARA VILLAGE, THIRUVALLA.

3. ANNAMMA VARUGHESE @ LILLYKUTTY, AGED ABOUT 60 YEARS, W/O. P.V.THANKAN, ANKAKKUNNEL SAJA BHAVAN, CHATHENKARY MURI, CHATHENKARY P.O., PERINGARA VILLAGE, THIRUVALLA.

BY

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J U D G M E N T

No representation. Defects not cured. dismissed for default.

27/11/2007 Sd/-**M.N. Krishnan, Judge.**
ul/-

// true copy //

P.A. TO JUDGE.

ORDER ON I.A.893 OF 2007
IN
TR.P.C. NO.78 OF 2007

DISMISSED

27/11/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

R. BASANT, J.

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T.P.(Crl.)No. 78 of 2007

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Dated this the 9th day of October, 2007

O R D E R

Application for transfer. According to the petitioner, the petitioner had allegedly issued five cheques to the first respondent. In respect of four of those cheques, prosecutions under Section 138 of the N.I. Act have been initiated before the Trivandrum court. In respect of the fifth cheque, an allegation is raised that the petitioner has committed the offence under Section 420 I.P.C. A private complaint has been filed before the learned Magistrate at Kottarakkara, which was referred to the police under Section 156(3) Cr.P.C. Investigation is not complete. Final report has not been filed. At this stage, the petitioner has come to this court with a prayer that the case filed before the First Class Magistrate - I, Kottarakkara - private complaint - may be ordered to be transferred to the Court at Trivandrum, which is seized of the other prosecutions under Section 138 of the N.I. Act. Obviously the request is not maintainable. In respect of the 5th cheque no proceedings had been initiated so far and no case is pending before any court. The matter is pending investigation before the police, the Magistrate having

referred the complaint under Section 156(3) Cr.P.C. The crime which is pending investigation cannot be directed to be transferred to a court invoking the power of transfer under Section 407 Cr.P.C. The prayer is misconceived and unsustainable.

3. This petition is accordingly dismissed.

(R. BASANT)
Judge

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